

HEATHER E. WILLIAMS, Bar #122664
Federal Defender
DAVID PORTER, Bar #127024
Assistant Federal Defender
Counsel Designated for Service
801 I Street, 3rd Floor
Sacramento, California 95814
Telephone: (916) 498-5700

Attorneys for Defendant
ERWIN SPRUTH

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. Cr. S 95-503 JAM

Plaintiff,

**STIPULATED MOTION AND ORDER TO
REDUCE SENTENCE PURSUANT TO 18
U.S.C. § 3582(c)(2)**

ERWIN SPRUTH,

RETROACTIVE DRUGS-MINUS-TWO REDUCTION CASE

Defendant.

Judge: Honorable JOHN A. MENDEZ

Defendant, ERWIN SPRUTH, by and through his attorney, Assistant Federal Defender David Porter, and plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Assistant U.S. Attorney Jason Hitt, hereby stipulate as follows:

1. On October 23, 2014, Mr. Spruth filed a pro se motion with this Court to reduce his sentence;

2. Pursuant to 18 U.S.C. § 3582(c)(2), this Court may reduce the term of imprisonment in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o);

3. On August 11, 1998, this Court sentenced Mr. Spruth to the statutory maximum terms for each count for a total term of 288 months imprisonment, comprised of 120 months for

1 each of two violations of 21 USC 841(d)(2) (Counts 4 & 7), and 48 months for a violation of 21
2 USC 843(b) (Count 1), all to be served consecutively;

3 4. His total offense level was 35, his criminal history category was VI and the
4 resulting guideline range was 292-365 months;

5 5. The sentencing range applicable to Mr. Spruth was subsequently lowered by the
6 United States Sentencing Commission in Amendment 782, made retroactive on July 18, 2014,
7 see 79 Fed. Reg. 44,973;

8 6. Mr. Spruth's total offense level has been reduced from 35 to 33, and his amended
9 guideline range is 235-293 months; and,

10 7. Accordingly, the parties request that the Court enter the order lodged herewith
11 reducing Mr. Spruth's term of imprisonment to a total term of 235 months, comprised of a 94-
12 month sentence on Count 4, a 93-month sentence on Count 7, and a 48-month sentence on
13 Count 1, all to be served consecutively;

14 Respectfully submitted,

15 Dated: January 16, 2014
16 BENJAMIN B. WAGNER
United States Attorney

Dated: January 16, 2015
HEATHER E. WILLIAMS
Federal Defender

17 /s/ Jason Hitt
18 JASON HITTC
19 Assistant U.S. Attorney

/s/ David M. Porter
DAVID M. PORTER
Assistant Federal Defender

20 Attorney for Plaintiff
UNITED STATES OF AMERICA

Attorney for Defendant
ERWIN SPRUTH

22 ORDER

23 This matter came before the Court on the stipulated motion of the defendant for reduction
24 of sentence pursuant to 18 U.S.C. § 3582(c)(2).

25 The parties agree, and the Court finds, that Mr. Spruth is entitled to the benefit
26 Amendment 782, which reduces the total offense level from 35 to 33, resulting in an amended
27 guideline range of 235-293 months.

IT IS HEREBY ORDERED that the total term of imprisonment imposed in August 1998 is reduced to a term of 235 months, comprised of a 94-month sentence on Count 4, a 93-month sentence on Count 7, and a 48-month sentence on Count 1, all to be served consecutively.

IT IS FURTHER ORDERED that all other terms and provisions of the original judgment remain in effect. The clerk shall forthwith prepare an amended judgment reflecting the above reduction in sentence, and shall serve certified copies of the amended judgment on the United States Bureau of Prisons and the United States Probation Office.

Unless otherwise ordered, Mr. Spruth shall report to the United States Probation Office within seventy-two hours after his release.

Dated: January 21, 2015

/s/ John A. Mendez
U. S. DISTRICT COURT JUDGE